IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE ELEVENTH DAY OF NOVEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE S.ANANDA REDDY

WRIT PETITION NO : 6701 of 1997

Between:

Smt.Konduru Vijaya Satyakumari Railway Station Road,
Phirangipuram Post, Guntur District.

..... PETITIONER

AND

1 Labour Court, Guntur, Rep. by its Presiding Officer.
2. The Executive Engineer District Scheduled Caste Service Coop.

Society Ltd., Behind ZPP Office, Guntur.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue an order, direction or a writ particularly one in the nature of Writ of Certiorari after calling for the records from the 1st respondent and quash the common award passed in I.D.185/90 and MP 65/90, dt.21-11-94 and consequently direct the 2nd respondent to reinstate the petitioner into service with full back wages, continuity of service and all other attendant benefits.

Counsel for the Petitioner : MR.J.M.NAIDU, Advocate,

Counsel for the Respondent No.1: GP FOR LABOUR

Counsel for the Respondent No.2: Mr. G. Chandraiah, Standing Counsel.

The Court made the following :

THE HON'BLE MR. JUSTICE S. ANANDA REDDY

W.P.No. 6701 of 1997

O R D E R:

This Writ Petition is filed by the petitioner aggrieved by the Award of the Labour Court passed in I.D.No.185 of 1990 and
M.P.No. 65 of 1990, dated 21.11.1994.

2. According to the petitioner, she was appointed as a clerk-cum-typist on 30-04-1987 in the Management of the 1st respondent society on a consolidated pay of Rs.600/- per month. It is her case that she continued in service till 15.6.1989 and thereafter her services were terminated by issuing a pay-order, dated 14.6.1989 for Rs.1500/- towards notice of pay as well as towards compensation, and such retrenchment is illegal and without jurisdiction. Therefore, the petitioner approached the Labour Court raising an industrial dispute, seeking to quash the said action of termination, and sought for reinstatement with all consequential benefits. The petitioner also filed the M.P., under Sec.33 C(2) of the Industrial Disputes Act, 1947 (hereinafter referred to as 'the Act') seeking monetary benefit on the principle of ‘equal pay for equal work’ i.e., to pay the differential wages that are paid to a regular employee, working as clerk-cum-typist. The Labour Court, after hearing both sides and considering the material produced before it, passed ‘nil award’ holding that the respondent has complied with the provisions of the Act, as was held by this Court in W.P.Nos. 7773, 7794 of 1989 and Batch, dated 12.12.1989, with reference to other similarly placed employees of the same respondent-society. The Tribunal also considered the claim of the petitioner in the M.P., and having found that the services rendered by the petitioner cannot be compared with a regular employee, held that the petitioner is not entitled to the benefit of the principle of ‘equal pay for equal work’. Aggrieved by that, the petitioner has come up with the present Writ Petition.

3. The learned counsel for the petitioner contended that the Labour Court was in error in not quashing the order of termination by ordering reinstatement with all consequential benefits. It is contended that the petitioner worked for more than 240 days continuously. Further, it is the case of the petitioner that there is enough work in the respondent-society for continuing the services of the petitioner and the

termination of the petitioner is illegal and without jurisdiction. The learned counsel for the petitioner also contended that even some of the juniors to the petitioners are being continued, while the services of the petitioner were terminated. Therefore, it is stated that the impugned action of the respondent-society is illegal and discriminatory. Alternatively, the learned counsel also contended that certain observations/ directions were made by this Court while disposing of the writ petitions filed by other similarly placed workman, and, therefore, the learned counsel also sought for similar directions even in favour of the petitioner also.

4. The learned counsel appearing on behalf of the respondent-society, on the other hand, supported the order of the Labour Court. It is contended that the petitioner was engaged on daily wage basis for the required work, and after completion of the said work, the services of the petitioner were terminated, after following the due procedure contemplated under the Act. It is also contended that the respondent-society is not having a regular establishment, and the services of the petitioner were engaged to carry on the works entrusted to it by the Government by sanctioning the funds. Therefore, the petitioner is not entitled for any relief. The respondent-society also contended that the M.P. filed under Sec.33 is not maintainable, as it was not decided that the petitioner is entitled to any monetary benefit of differential pay. Therefore, the learned counsel sought to confirm the order of the Tribunal.

5. Heard the learned counsel for the petitioner and the learned Standing Counsel for the 2nd respondent-society, and considered the material on record.

6. Admittedly, the petitioner was appointed on daily wage basis as Clerk-cum-Typist. Though she worked for more than 240 days, as her services were no more required, the society terminated the services of the petitioner after paying the notice-pay as well as compensation by way of pay-order on 14.6.1989 itself. Though the petitioner contended that the said action of the respondent-society is illegal, as her services are required by the society, the Tribunal, on appreciation of evidence, did not find favour and therefore, confirmed the order of termination. Though the learned counsel for the petitioner, during the course of arguments, contended that some of the juniors to the petitioner are being retained, there is absolutely no merit in the said contention, as, according to the petitioner, she was only a contingent employee, engaged as clerk-cum-typist. Therefore, there is no question of retention of any of her juniors in the respondent-society. As the Tribunal has considered elaborately as to the compliance of the provisions of the Act and also the similar contention, as

already been rejected by this Court in a batch of writ petitions referred to earlier, the petitioner is not entitled to any relief in the present Writ Petition.

7. Accordingly, the Writ Petition is dismissed. No costs.

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S. Ananda Reddy, J.

Dt. 11.11.2004

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1 The Presiding Officer, Labour Court, Guntur.

2. The Executive Engineer,

District Scheduled Caste Service Coop. Society Ltd.,

Behind ZPP Office, Guntur.

THE HON'BLE MR. JUSTICE S. ANANDA REDDY

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